

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

UNITED STATES OF AMERICA

v.

DONALD L. BLANKENSHIP

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Criminal No. 5:14-cr-00244

**DEFENSE MOTION NO. 4A,
MOTION TO DISMISS THE SUPERSEDING INDICTMENT
FOR SELECTIVE AND VINDICTIVE PROSECUTION**

Mr. Blankenship, through counsel, hereby moves to dismiss the superseding indictment based on the government's selective and vindictive prosecution of him. This motion was filed previously as a motion to dismiss the original indictment (ECF No. 81), and the defense hereby incorporates the briefs and accompanying exhibits it submitted in support of that motion (ECF Nos. 81, 82, 145). The government already has responded (ECF No. 128), and the superseding indictment does not affect any of the issues raised in the original motion. Accordingly, this motion is fully briefed and ripe for argument.

For the Court's convenience, the previously filed briefs are attached as exhibits to this motion: Exhibit A contains Mr. Blankenship's opening brief, Exhibit B contains the exhibits to that brief, Exhibit C contains the government's response, and Exhibit D contains Mr. Blankenship's reply brief. As a result of the superseding indictment's re-organization of counts, references in the briefs to Counts One or Two should now be understood as a reference to Count One of the superseding indictment, references to Count Three now should be understood as a reference to Count Two of the superseding indictment, and references to Count Four now should be understood as a reference to Count Three of the superseding indictment.

WHEREFORE, Mr. Blankenship respectfully requests dismissal of the superseding indictment with prejudice. Alternatively, Mr. Blankenship requests dismissal without prejudice.

Dated: April 7, 2015

Respectfully submitted,

/s/ William W. Taylor, III

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Counsel for Donald L. Blankenship

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been electronically filed and service has been made
by virtue of such electronic filing this 7th day of April 2015 on:

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/s/ Eric R. Delinsky
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